

Meeting Minutes

April 1, 2004

Town of Los Altos Hills

City Council Regular Meeting

Thursday, April 1, 2004 6:00 P.M.
Council Chambers, 26379 Fremont Road

1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Cheng called the Regular Meeting of the City Council to order at 6:00 p.m. in the Council Chambers at Town Hall.

Present: Mayor Emily Cheng, Mayor Pro Tem Mike O'Malley, Councilmember Bob Fenwick, and Councilmember Dean Warshawsky
Absent: Councilmember Breene Kerr (joined meeting at 7:30 pm)
Staff: City Manager Maureen Cassingham, Assistant City Attorney David Warner, Planning Director Carl Cahill, Administrative Services Director Sarah Joiner, Acting City Engineer/Director of Public Works David Ross, Assistant Planner Angelica Herrera Olivera and City Clerk Karen Jost
Press: None

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Warshawsky and passed unanimously to limit the length of time for public comments to three minutes.

2. APPOINTMENTS AND PRESENTATIONS

3. PLANNING COMMISSION REPORT

Planning Director Carl Cahill summarized the Planning Commission meeting of March 25, 2004 for Council. The Commission had considered three items: Lands of Kerns, landscape screening and lighting plan - item was continued to a future meeting; Lands of Packard, a request for a conditional use permit modification to increase the meeting size from 30 participants to 45; and, Lands of Spector and Ammer, a request for a Site Development Permit for a 1,192 square foot pool and spa and a variance to allow deck encroachment into setbacks. The variance request was approved by the Commission with the finding that the actual coverage in the setback was being reduced. Cahill noted that the Planning Commission is recommending approval of the Lands of Packard Conditional Use Permit modification and the item is being forwarded to Council for their consideration at their next meeting.

4. CONSENT CALENDAR

Item Removed: Item 4.3(O'Malley)

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Warshawsky and passed unanimously, to approve the remainder of the consent calendar, specifically;

- 4.1 Approval of Minutes: Regular City Council Meeting March 18, 2004
- 4.2 Review of Disbursements: 03/11/2004 – 03/23/2004 \$196,076.55
- 4.3 State Budget Update
- 4.4 Resolution Commending Nancy Couperus as Recipient of the John W. Gardner Community Building Award for Los Altos / Los Altos Hills
- 4.5 Adoption of a Resolution Approving the Request to Apply for Project Funding from the VTA Local Streets and County Roads Fund Program
- 4.6 Notification of Fast Track Approval: A Request for a Site Development Permit for a 1,615 Square Foot Addition (Maximum Height 24'5" feet) Lands of Ma, 28238 Christophers Lane (238-03-ZP-SD-GD)
- 4.7 Letter of Support of the Adobe Creek Reach 5 Collaborative and Santa Clara Valley Water District's proposed Adobe Creek Upper Reach 5 Restoration Project and District Funding of Same
- 4.8 Request for Approval of Agreement Amendment No.2 to Purissima Sewer Lift Station Sewer Reimbursement Agreement

Items Removed:

- 4.3 State Budget Update

Mayor Pro Tem O'Malley requested clarification on this item from Administrative Services Director Sarah Joiner. Joiner explained that the League of California Cities is working diligently to gather enough signatures to place the "Local Taxpayers and Public Safety Protection Act" on the November, 2004 ballot. Property tax is a major source of revenue for the Town. It accounts for approximately 33% of General fund revenues. Joiner noted that unlike the cities of Saratoga and Cupertino, our sales tax revenue accounts for less than 5% of General Fund revenue. The proposed Act will enable the Town to maintain control over local tax dollars so funding for local services will be more dependable and predictable.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Warshawsky and passed unanimously to receive and file the State Budget Update report.

5. UNFINISHED BUSINESS

5.1 Update on Mayor's Goals

5.1.1 New Town Hall – Status Report

- TBI Update

City Manager Cassingham reviewed the update memo from construction manager TBI with Council. TBI reported that they are working on the bid packages, foundation review and the Bullis School site as temporary quarters for Town Hall.

5.1.2 Undergrounding of Utilities – Status Report

Councilmember Warshawsky noted that a Study Session with the Undergrounding Committee and Council had been scheduled for May 6th at 5:00 pm. The R.W. Beck report and findings and the telephone survey conducted by Godbe Research will be reviewed.

5.1.3 Master Pathway Map – Status Report

Mike Kamangar, Pathways Committee member, reported that the review of the map is progressing. The Committee is meeting twice a month and expects the process to require several more months.

5.1.4 Storm Water Master Plan – Status Report

Acting City Engineer Dave Ross reported that the consultant is preparing cost estimates on the areas that have been identified as potentially needing repair. Their findings and estimates will be forwarded to Council.

5.1.5 Visit to China to Explore Business Opportunities – Status Report

Mayor Cheng reported that the trip is on schedule. Fifteen residents will be participating. More information about the trip can be found on their website at www.flashcomposer.net/sechina

6. NEW BUSINESS

6.1 Appointment to the VTA's Bicycle & Pedestrian Advisory Committee (BPAC)

Mayor Cheng reported that, at this time, the Town does not have a candidate to appoint to the BPAC. Mike Kamangar, Pathways Committee has completed his term and has declined reappointment and the Pathways Committee has declined to forward another nominee for Council consideration.

Council thanked Kamanger for his efforts and involvement on the Advisory Committee.

6.2 Consideration of Agenda for May 4th Joint Los Altos and Los Altos Hills Council Meeting

Following a brief discussion, Council concurred that they would like sewer capacity rights to be the main focus of the joint meeting agenda. Adobe Creek and the library

would be additional items for discussion. The City Clerk was directed to work with the City of Los Altos City Clerk to finalize the agenda.

6.3 Response to Warren Kirsch Letter Dated March 18, 2004 Regarding Unconnected Sewer Laterals-Robleda Road Sanitary Sewer Extension #2 Project

Warren Kirsch, Ciceroni Lane, addressed Council. Kirsch explained that after several conversations with Acting-City Engineer Ross and reviewing the staff report response to his request for a variance on the Town's policy regarding unconnected laterals, he would like to offer a compromise. He would like to request only twelve (12) unconnected laterals on Robleda and forgo his request on the side streets. Kirsch noted that as Robleda is a very busy street, his request is based on public safety. He offered the additional suggestion that the laterals not be constructed to the property line but just beyond the pavement and terminated at the public right-of-way to prevent the roadway being torn up for each connection.

Mayor Pro Tem O'Malley agreed that it would be advantageous to disturb Robleda for construction as few times as possible but the primary concern with permitting unconnected laterals is the possibility of illegal connections. The sewer is located in the Los Altos Sewer Basin and capacity rights are no longer available via the City of Los Altos to Los Altos Hills residents. O'Malley would be willing to consider laterals to properties that currently own Los Altos sewer capacity (connection) rights. He would also like a letter from the group acknowledging that they would not hold the Town liable for the loss of reimbursable fees if there are illegal connections to the sewer line.

Warren Kirsch concurred with Mayor Pro Tem O'Malley's proposed conditions.

OPENED PUBLIC COMMENT

CLOSED PUBLIC COMMENT

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Warshawsky and passed by the following roll call vote to direct staff to create an exemption to the Town's policy of "No Unconnected Sewer Laterals" for the Robleda Road Sanitary Sewer Extension #2 to allow laterals constructed to those lots on Robleda Road that have existing capacity rights for connections to the Los Altos Sanitary Sewer Basin. Proof of the sewer connection will be provided to the Town. The exemption will minimize the need to disrupt passage on the busy street with construction and is a benefit to public safety and the convenience of Town residents. The Town will be provided with a letter indemnifying the Town from any claims by the Robleda Road Sanitary Sewer Extension #2 (RRSSE2) for the loss of reimbursement revenues from illegal connections.

AYES: Mayor Cheng, Mayor Pro Tem O'Malley, Councilmember Fenwick, and Councilmember Warshawsky
NOES: None
ABSENT: Councilmember Kerr
ABSTAIN: None

Council will revisit the issue of penalties/monetary fines for illegal connections at a future date.

7. REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

Mayor Cheng reported that she had attended the Library Joint Powers Authority meeting. They are reviewing their options after the failure of Measure B. Library hours of operation will be reduced and some closure of libraries may be necessary. The JPA is considering a special election in June 2005.

Mayor Cheng reported on the March Parks and Recreation Committee meeting. The Committee is developing a strategic plan for the department for the next ten years. They will be interviewing the Council and representatives from the Standing Committees, Los Altos/Los Altos Hills Little League, Westwind Barn, sports groups and other interested parties. The Committee is presently developing the interview questions and scheduling times for the participants.

Mayor Cheng announced that the Parks and Recreation Department and Committee are sponsoring a "Dog Easter Egg Hunt" at Town Hall for April 10th.

Mayor Cheng explained that she and the City Manager had met with Los Altos School District to discuss the lease of Bullis School playing fields. Cheng noted that she had introduced the concept of minimal restoration to the fields and the Board seemed amenable to the idea. A model of the agreement will be forwarded to the LASD Board and City Council within the next thirty days.

8. STAFF REPORTS

8.1 City Manager

8.2 City Attorney

8.3 City Clerk

8.3.1 Report on Council Correspondence

9. COUNCIL-INITIATED ITEMS

10. PRESENTATIONS FROM THE FLOOR

Steve Hubbell, Public Education Chair, made a brief presentation to Council on the recent activities of his Committee and the results of the Town-wide Public Education Survey. Approximately 400 surveys had been returned and reviewed. He will present a more detailed report at the next Council meeting. Hubbell added that he would also be requesting funds from Council for the services of an Education Attorney to assist the Committee.

11. PUBLIC HEARINGS

11.1 Proposed Ordinance Amendments to the Town's Zoning Code with Regard to Fences (Section 10-1.504 (d) Height; Walls and Fences)

Assistant Planner Angelica Herrera Olivera introduced this item to Council. She presented a powerpoint presentation to assist Council in reviewing the draft ordinance pertaining to fences, walls, gates and columns. Olivera noted that the review of the existing code sections regarding fences was initially assigned to the Municipal Code and Policy Review Committee by the City Council in 2002. Following their study, they recommended that the Council consider adopting a new section within the Zoning Ordinance pertaining exclusively to fences. At the Planning Commission and City Council's Joint Meeting in September, 2003, the Council requested that the fence ordinance be reviewed by the Commission and such items as fencing of conservation easements and wild life habitat and the effects of solid fencing on view corridors be addressed.

Olivera reported that the Planning Commission had reviewed and commented on various drafts of the revised ordinance and distributed a town-wide public hearing notice for their March 11, 2004 meeting. As a result of public testimony at the hearing and emailed comments, the Planning Commission was forwarding to Council the following recommendations: simplify and define fence ordinance terminology; consolidate fence rules into a single ordinance; incorporate illustrations depicting fence standards and required locations; prohibit certain fence types including chain-link, barbed wire, and electric fences with the exception of animal husbandry operations; require a 10-day notice and public hearing procedure for all chain-link and solid fences within 5 feet of the property boundary lines; include design guidelines for fences, walls, gates and columns; establish a 6 feet average height and 7 feet maximum height for "open" driveway gates; allow up to 8 feet tall deer fencing and allow up to 50% of the gross acreage of a lot to be fenced by deer fencing; prohibit fences and gates within pathway and public utility easements and include existing administrative and public hearing procedure for fence variances.

Olivera provided Council with photo representations of fence materials, deer fencing, fences with landscape screening and open driveway gates. She added that the most significant proposed changes to the ordinance were: to establish a 6 foot average height and seven foot maximum height for "open" driveway gates; to allow up to 8 foot deer fencing and allow up to 50% of the gross acreage of a lot to be fenced by deer fencing; and to require a 10-day notice and public hearing procedure for all chain-link and solid fences proposed within 5 feet of property boundary lines. Olivera noted that the noticing requirement could potentially be a time consuming and expensive process for property owners and neighbors. The applicant would be required to prepare mailing labels and at least two weeks would be added to the review of fence applications. In 2003, the Planning Department issued 31 fence permits. Olivera offered the following possible alternatives to mandatory noticing and the public hearing review process for fence permits: the inclusion of wording in the revised ordinance that provides the Planning Director with the discretion to refer any fence permit application to the Planning Commission that may have a significant effect on the aesthetic or rural character of the

Town or the views from surrounding properties; or, to simply prohibit certain fence types such as solid and all chain-link fences.

Council thanked Assistant Planner Olivera for her informative presentation.

Planning Director Cahill, in response to a question from Council, explained that in the past year, 31 fence permits had been issued and he would not consider any of these controversial. He added that controversial fences generally require a variance and are subject to a review by the Planning Commission.

OPENED PUBLIC HEARING

Resident, Old Trace Lane, commented that he would like to build a fence on his property for security reasons. He is an officer in a public company and is concerned with the safety of his family. He is proposing a black vinyl coated chain-link fence with landscape screening. The resident noted that he has applied for his permit but it has not been issued.

Resident, Taaffe Road, explained that he is investigating his options for fencing on his property. He would like to protect his landscaping from deer. Because of his unusual lot and public utility easements, he is finding it difficult to locate his fence in a satisfactory location.

Planning Director Cahill explained that staff would be happy to work with the resident. Residents have been permitted to locate fences within the utility easements. The applicant needs to request letters from the various utilities stating that they have no objection to him building the fence and the Town's present policy would permit him to construct his fence.

Jim Abraham, Viscaino Road, stated that in his opinion the proposed ordinance is to "elaborate" and not what Council had directed. He does not want to see the return of the "Design Guidelines" and feels it is pointless to try to "fix something that isn't broken."

Carol Gottlieb, Summerhill, requested clarification on the deer fencing. Planning Director Cahill explained that, as proposed, 8 foot deer fencing can be located on the side and rear property lines and can encompass no more than 50% of the lot. Gottlieb added that she was concerned that if fencing is permitted on both sides of a conservation easement or pathway, it would be too easy to gate.

Allan Epstein, Ravensbury Avenue, explained that he believes it would be problematic not to permit gates in Public Utility Easements. He has one on his property and it prevents his property from being open and accessible.

CLOSED PUBLIC HEARING

Councilmember Fenwick explained that he is comfortable with the Town's existing code on fences. There had been no public outcry for a new ordinance. He has not received comments or correspondence from the residents in favor of the proposed changes and two

telephone calls against. He favored the Planning Director being given the authority and full discretion to forward controversial fences to the Planning Commission for review.

Councilmember Warshawsky thanked the Planning Commission for their thorough review. He would like to see neighbors notified if a controversial fence is being proposed and would give the discretion to the Planning Director to identify those. Warshawsky liked the modification to the open driveway gates and noted that it allows more architectural design flexibility. He would permit 8 foot deer fencing approved at the staff level and concurred with Councilmember Fenwick that the additional recommended changes to the ordinance are not needed.

Mayor Pro Tem O'Malley agreed that there have been very few fence issues during the past few years. He would like to see the prohibition of steel chain-link fence. Dark colored vinyl coated chain-link would be acceptable. O'Malley concurred that the Planning Director should have the discretion to forward controversial fences to the Planning Commission for a public hearing, particularly solid fences that block neighbors views. He concurred with Warshawsky and liked the flexibility of the 7 foot maximum height for open driveway gates and would be amenable to 8 foot deer fencing in backyards. O'Malley did not want an ordinance that would vie neighbor against neighbor and require permission from your neighbor to install a fence.

Mayor Cheng agreed that there have been few problems with the existing fence code. She thought Council had directed that the existing ordinance be streamlined. Cheng noted that requiring public hearings on fences would present a tremendous strain on staff, the Planning Commission and City Council.

Following a brief discussion, Council agreed that a separate consideration/definition for deer fencing was not necessary and should be deleted from the draft ordinance and to prohibit electric perimeter fencing except when used in conjunction with animal husbandry.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Warshawsky and passed by the following roll call vote to introduce and waive further reading of the fence ordinance as modified and to include the following conditions: 1) Prohibit certain fence types including metal chain-link or cyclone fencing (except dark green, black, or brown vinyl coated), barbed or razor wire fencing, and electric perimeter fences except if used for animal husbandry; 2) To establish a six foot (6') average height and seven (7') foot maximum height for "open" driveway gates; 3) To prohibit fences and gates within pathway easements; and 4) To give the Planning Director the discretion to refer any fence permit application to the Planning Commission, when in his or her judgment the proposed fence may have a significant effect upon the aesthetic or rural character of the Town or the views from surrounding properties.

AYES:	Mayor Cheng, Mayor Pro Tem O'Malley, Councilmember Fenwick, and Councilmember Warshawsky
NOES:	None
ABSENT:	Councilmember Kerr
ABSTAIN:	None

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Warshawsky and passed unanimously to adjourn to the Closed Session at 7:50 pm.

12. CLOSED SESSION

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION: Government Code Section 54956.9(a): Campbell and Ligeti v. Town of Los Altos Hills

The City Council reconvened to the Regular City Council meeting at 7:58 pm.
No action was taken

13. ADJOURNMENT

There being no further business, the Regular City Council Meeting was adjourned at 7:59 pm.

Respectfully submitted,

Karen Jost
City Clerk

The minutes of the April 1, 2004 Regular City Council Meeting were approved at the April 15, 2004 Regular City Council Meeting